

A G. Contract No. KR99 1135TRN  
ADOT ECS File: JPA 99-76  
Project No. TEA-051-2(44)P  
TRACS No. H2959 01D/01C  
Section: SR-180 Nelson Reservoir  
Rest Area

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
THE APACHE-SITGREAVES NATIONAL FORESTS

THIS AGREEMENT is entered into 29 June, 2000  
pursuant to Arizona Revised Statutes Sections 11-951 through 11-954, as amended between the  
STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the  
"State") and the APACHE-SITGREAVES NATIONAL FORESTS acting by and through its Forest  
Supervisor.

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter  
into this agreement and has by resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has delegated to the undersigned the authority  
to execute this agreement on behalf of the State.

2. The Forest Service is empowered by the Cooperative Funds Act of June 30,  
1914, 16 U.S.C. 498 and the Intergovernmental Cooperative Act of 1968, Title III, 31 U.S.C.  
6501-6508, Pub. L. 90-577, as amended, Pub. L. 97-258, September 13, 1982, and has  
delegated to the undersigned the authority to execute this agreement on behalf of the Forest  
Service.

3. The Transportation Equity Act for the 21st Century, PL105-178 (TEA-21) of  
1998 includes provisions for the Transportation Enhancement funding on the Scenic Byway  
which establishes a program providing State administered funds to be used for the development  
of scenic byways and related projects. State funds in the amount of \$560,000 have been  
allocated to the Forest Service for the design and construction of a rest area on SR-180 at the  
Nelson reservoir.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as  
follows:  
=====

NO 24067  
Filed with the Secretary of State  
Date Filed: 06/29/00

Petrey Gayles  
Secretary of State

Dicky D. Greenwood

## II. SCOPE OF WORK

### 1. The Forest Service will:

a. Complete environmental documentation in the ADOT format and submit for ADOT/FHWA approval. Provide design plans, specifications and such other documents and services required for the project, and submit them to the State for concurrence.

b. Invoice the State, in the form of Exhibit A, for the cost of the plans, specifications or other such design documents and services required for construction bidding, in a total amount not to exceed \$60,000.

c. Call for bids and, upon the concurrence of the State, award one or more construction contracts for the project. Administer same and make all payments to the contractor. No more often than monthly, invoice the State, in the form of Exhibit A, for the reasonable direct actual cost of the project construction, with no profit or fee, in an amount currently estimated at \$500,000.00. Be responsible for any contractor claims for extra compensation due to delays or whatever reason.

d. Upon completion, approve and accept the project on behalf of the parties hereto as complete. Maintain the facility in a safe, sanitary and attractive manner as designed. All construction and maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirement of the Arizona Department of Transportation "Uniform Traffic Control Manual".

e. The state and federal funding sources shall be prominently displayed on the building and interpretive displays.

f. If applicable, waive the requirements of Arizona Revised Statute 28-7209 as regards 4 year advance notification of intent to abandon.

### 2. The State will:

a. Take the right-of-way required for the improvement project into the State Highway system. Review and approve the design plans for TEA funds.

b. Pay the Forest Service within 30 days after receipt and approval of an invoice, in a total amount not to exceed \$60,000.00 for design.

c. Following approval of design, submit and obligate TEA-21 Transportation Enhancement Funds for construction.

d. Pay the Forest Service within 30 days after receipt and approval of monthly invoices for construction, in a total amount not to exceed \$500,000.00. Upon completion and acceptance of the Project by the Forest Service, abandon the right-of-way required for the improvement project back to the Forest Service.

## III. MISCELLANEOUS PROVISIONS

1. This agreement shall become effective upon filing with the Secretary of State.

2. This agreement shall remain in force and effect until completion of said improvements and payments; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the commencement of performance under this contract, upon thirty (30) days written notice to the other party.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. Pursuant to Section 22, Title 41, United States Code, no member of, or Delegate to, Congress shall be admitted to any share or part of this instrument, or any benefits that may arise therefrom.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. Applicable laws of the State and Federal government shall govern the rights of the parties with respect to the performance of this agreement. The parties hereto shall select a process for the resolution of claims or disputes relating to this agreement, compliant with applicable laws and regulations of the State and Federal government, and acceptable to the State and Federal government. Such process will include a provision for arbitration.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17th Avenue, Mail Drop 616E, Room 222  
Phoenix, AZ 85007

Forest Supervisor  
P.O. Box 640  
309 South Mountain Avenue  
Springerville, AZ 85938

8. Attached hereto is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and the agreement is in proper form.

9. Improvements placed on National Forest System land at the direction of either of the parties, shall thereupon become the property of the United States, and shall be subject to the same regulations and administration of the Forest Service as other National Forest improvements of a similar nature.

10. This instrument in no way restricts the forest Service or the State from participating in similar activities with other public or private agencies, organizations, and individuals.

11. No part of this instrument shall entitle the State to any share or interest in the project other than the right to use and enjoy the same under the existing regulations of the forest Service, and the right to enforce all terms and conditions of this agreement.

12. Contributions authorized by the State for use by the Forest Service, which are not spent or obligated for project(s) approved under this instrument, will be refunded to the State or authorized for use for new projects as agreed with the State, pursuant to Part II (A) and (B) (amendments).

13. Any State contributions made under this instrument do not by direct reference, or implication convey forest Service endorsement of the State's products or activities.

14. The Principal Contacts for this instrument are:

John Macivor  
USDA Forest Service  
Apache-Sitgreaves NF  
Springerville District  
PO Box 760  
Springerville, AZ 85938  
520-333-4372

Arizona Department of Transportation  
Joint Project Administration  
205 S. 17<sup>th</sup> Avenue MD 616E  
Phoenix, AZ 85007  
602-712-8369

In witness whereof, the parties have executed this agreement the day and year first above written.

**US DEPARTMENT OF AGRICULTURE STATE OF ARIZONA**

Apache-Sitgreaves National Forests

Department of Transportation

By   
JOHN C. BEDELL  
Forest Supervisor

By   
WILLIAM J. HIGGINS  
Deputy State Engineer

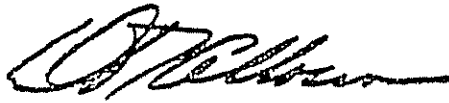
 I CERTIFY THIS IS A TRUE  
COPY OF AN ORIGINAL

99-76.doc  
1mar

RESOLUTION

BE IT RESOLVED on this 28th day of January 2000, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the Apache Sitgreaves National Forest for the purpose of designing, constructing and maintaining the Nelson Reservoir Rest Area.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.



---

DAVID R. ALLOCCO, P.E.  
Assistant State Engineer  
Engineering Technical Group  
for Mary E. Peters, Director

JPA 99-67

DETERMINATION

Arizona Contract No. JPA 99-67, which is an agreement between public agencies; to wit; the STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the UNITED STATES OF AMERICA, APACHE-SITGREAVES NATIONAL FOREST, has been reviewed by the undersigned for the United States who has determined that it is in the proper form and within the powers and authority granted to the United States.

No opinion is expressed as to the authority of the State of Arizona to enter into said agreement.

DATED this 15 day of June, 2000.

THE UNITED STATES OF AMERICA

By 



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ 85007-2926

JANET NAPOLITANO  
ATTORNEY GENERAL

TRN Main: (602) 542-1680

Direct: (602) 542-8837

Fax: (602) 542-3646

MAIN PHONE: (602) 542-5025

FACSIMILE: (602) 542-4085

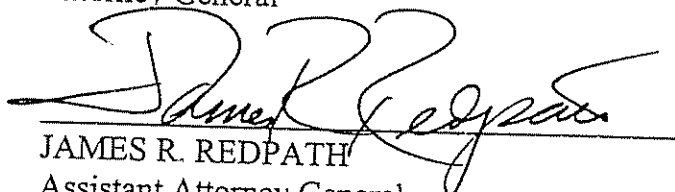
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR99-1135TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED June 19, 2000.

JANET NAPOLITANO  
Attorney General

  
JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

JRR:et/632359

Enc.